



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMse14080627

EEOC No.: [REDACTED]

[REDACTED],  
Complainant,

v.

COMPAGNA ACADEMY,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On August 11, 2014, [REDACTED] ("Complainant") filed a Complaint with the Commission against Compagna Academy ("Respondent") alleging discrimination on the basis of sex in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter. An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was subjected to disparate discipline because of her gender, female. In order to prevail, Complainant must show that 1) she engaged in prohibited conduct similar to that of a male co-worker; but 2) was disciplined more severely than the similarly-situated male employee. It is evident that Complainant was terminated after being observed sleeping on the job and falsifying documentation; however, evidence shows that a similarly-situated male employee retained his employment after being observed sleeping on the job, neglecting job duties, and failing to supervise clients.

By way of background, Respondent is a residential center responsible for providing therapeutic and other services to youth. At all times relevant to the Complaint, Complainant was responsible for monitoring clients. On or about July 15, 2014, Complainant was responsible for observing and documenting the progress of a patient every five minutes; however, Respondent observed her sleeping during her shift and falsifying observation records upon being awakened. As a result, Respondent terminated her employment that same day; however, during the same



timeframe, Respondent issued a similarly-situated male employee (Trent Heffner) discipline for sleeping on the job and neglecting his job duties. Further, evidence shows that this same male employee was given a verbal warning for failing to supervise clients while it appears that Complainant was more severely disciplined for the same violation (receiving a level one violation versus a verbal warning). Simply stated, there is sufficient evidence to show that Respondent treated a male employee more favorably under similar circumstances; as such and based upon the aforementioned, probable cause exists to believe that an unlawful discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

February 26, 2015  
Date

Akia A. Haynes  
Akia A. Haynes, Esq.  
Deputy Director  
Indiana Civil Rights Commission